

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Adam Olson,**  
Petitioner-Appellant,

**v.**

**Iowa County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 12-48-0329**  
**Parcel No. 7306-0105-2**

On July 30, 2013, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Adam Olson was self-represented. Assistant County Attorney Lou McMeen represented the Iowa County Board of Review. The Appeal Board having examined the evidence, heard the testimony, and being fully advised finds:

***Findings of Fact***

Adam Olson is the owner of a residential, single-family property located at 700 Court Avenue in Marengo, Iowa. The property is a one and one half-story residence built in 1903 with 2832 square-feet of total living area, and a full unfinished basement. The property also has a 264 square-foot, enclosed, brick porch; a 48 square-foot open porch; and a 240 square-foot patio. It includes two detached garages; one built in 1903 with 440 square feet, and one built in 2002 with 1040 square-feet. The home is listed as being of high quality (2+00) grade and in very good condition. The site is 0.606 acres.

Olson protested to the Board of Review regarding the 2012 assessment of \$220,330, which was allocated as follows: \$24,910 in land value and \$195,420 in improvement value. This value did not change from the previous reassessment. His claim was based on the following grounds: 1) that the

assessment was not equitable as compared with the assessments of other like property Iowa Code section 441.37(1)(a)(1); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2).

Olson claimed the property should be assessed at \$155,200, which is allocated \$25,200 in land and \$130,000 in improvement value. He purchased the subject property for \$190,000 on March 12, 2012. The Board of Review reduced his assessment, in part, to \$211,130.

Olson then appealed to this Board reasserting his claims. 2012 is an interim year, and as previously noted, Olson's assessment did not change from the previous reassessment year (2011). In a reassessment year, the only appropriate ground for protest is that there has been a change in value since the last assessment. Olson did not plead this ground; however, the Board of Review acted on Olson's petition and lowered Olson's assessment citing consideration of all the data presented. Because the Board of Review acted on the petition, we find it acquiesced to the ground that there has been a change in value since the last assessment under sections 441.35(2) and 441.37(1)(b). *See Security Mut. Ins. Ass'n v. Bd. of Review of Ft. Dodge*, 467 N.W.2d 301, 305 (Iowa Ct. App.1991); *White v. Bd. of Review of Polk County*, 244N.W.2d 765,769 (Iowa 1976). Furthermore, this is the only ground we will consider on appeal.

Olson provided a two-page printout of sales from the Iowa County Assessor's website. The list included twenty sales from 2002 through 2012, with total living areas ranging from 2538 square feet to 3056 square feet. The twenty sales are only of thirteen properties, as five of the properties sold two or three times between the 2002 and 2012 time frame, including the subject property. The search was limited to the Marengo map areas #3, #4 #, 5, #6, #7, and #8. The printout includes a column titled "appraised value" which we note is the 2012 assessed value. The Board of Review provided additional information regarding these properties and presented it in a spreadsheet (Exhibit I). Ultimately, these sales are unadjusted for differences as compared to the subject property. Further,

Olson did not provide an opinion of market value for either the January 1, 2011, or January 1, 2012 assessment date. Both values are required for a claim of downward trend. Therefore, we give this evidence no weight.

The Board of Review provided a spreadsheet (Exhibit J) of seven other sales. It also provided the property record cards for these properties. Five of the properties are located in Marengo and two are located in Williamsburg. They are all one and one-half story or two-story homes with living areas from 1386 square feet to 2112 square feet, whereas the subject property has 2832 square feet of living area. Like Olson's data no adjustments were made for the differences between these properties and the subject property. Lastly, the County Assessor Linda Griggs testified these were not "comparable" properties, but rather she was simply providing sales of properties. Because the properties are not comparable, we give this evidence no weight.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property has suffered a downward change in value since the last assessment.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

Olson provided some data however, it was unadjusted, and he did not opine a fair market value of the subject property for either the January 1, 2011, or January 1, 2012 assessment dates. We noted that Olson did purchase the subject property in March 2012 for \$190,000, which may reflect the fair market value on January 1, 2012. However, even if we considered the purchase price for the January

1, 2012 value, there must also be an opinion of the fair market value as of January 1, 2011, to support his claim.

THE APPEAL BOARD ORDERS the assessment of Adam Olson's property located at 700 Court Avenue, Marengo, Iowa of \$211,130 as of January 1, 2012, set by the Iowa County Board of Review, is affirmed.

Dated this 21st day of August, 2013.

*Stewart Iverson*

Stewart Iverson, Presiding Officer

*Jacqueline Rypma*

Jacqueline Rypma, Board Member

*Karen Oberman*

Karen Oberman, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on August 21, 2013.

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier  
☐ Certified Mail ☐ Other

Signature \_\_\_\_\_

*Jean Cooper*